

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

_____	)	
DAVID COX,	)	
Plaintiff,	)	
	)	
v.	)	C.A. No.: 05-11608GAO
	)	
RYAN MARINI, SEAN	)	
BORDWELL, and JOHN DOE,	)	
Defendants.	)	
_____	)	

**SEAN BORDWELL’S ANSWER AND AFFIRMATIVE DEFENSES**

Defendant, Sean Bordwell (“Bordwell”), denying each and every allegation that is not specifically admitted herein, responds as follows to the enumerated paragraphs in the complaint filed by David Cox (“Plaintiff”)

**Introduction**

1. To the extent that Paragraph 1 summarizes the Complaint, it does not set forth specific allegations of fact to which Bordwell is obligated to respond. To the extent that Paragraph 1 may be deemed to set forth factual allegations to which Bordwell is obligated to respond, Bordwell denies same.

**Parties**

2. Bordwell is without sufficient knowledge to admit or deny the allegations contained in Paragraph 2 of the Complaint and, therefore, denies same.

3. Bordwell is without sufficient knowledge to admit or deny the allegations contained in Paragraph 3 of the Complaint and, therefore, denies same.

4. Bordwell admits that he is a resident of Virginia; Bordwell denies all other factual allegations of Paragraph 4.

5. Bordwell is without sufficient knowledge to admit or deny the allegations contained in Paragraph 5 of the Complaint and, therefore, denies same.

#### Jurisdiction and Venue

6. Paragraph 6 sets forth a conclusion of law for which no response is required.

7. Paragraph 7 sets forth conclusions of law to which no response is required.

8. Paragraph 8 sets forth a conclusion of law to which no response is required.

9. Paragraph 9 sets forth conclusions of law to which no response is required.

#### General Allegations

10. Bordwell admits only that Plaintiff walked by him; Bordwell is without sufficient knowledge to admit or deny the remaining allegations contained in Paragraph 10 of the Complaint and, therefore, denies same.

11. Bordwell denies that he confronted Plaintiff; Bordwell is without sufficient knowledge to admit or deny the remaining allegations contained in Paragraph 11 of the Complaint and, therefore, denies same.

12. Bordwell is without sufficient knowledge to admit or deny the allegations contained in Paragraph 12 of the Complaint and, therefore, denies same.

13. Bordwell denies the allegations contained in Paragraph 13 of the Complaint.

14. Bordwell is without sufficient knowledge to admit or deny the allegations contained in Paragraph 14 of the Complaint and, therefore, denies same.

15. Bordwell denies that he held Plaintiff; Bordwell is without sufficient knowledge to admit or deny the remaining allegations contained in Paragraph 15 of the Complaint and, therefore, denies same.

16. Bordwell denies that he kicked Plaintiff; Bordwell is without sufficient knowledge to admit or deny the remaining allegations contained in Paragraph 16 of the Complaint and, therefore, denies same.

17. Bordwell denies that he rammed Plaintiff's head into a parked car; Bordwell is without sufficient knowledge to admit or deny the remaining allegations contained in Paragraph 17 of the Complaint and, therefore, denies same.

18. Bordwell denies that he kicked Plaintiff; Bordwell further denies that he uttered racial epithets or other vulgarities at Plaintiff; Bordwell is without sufficient knowledge to admit or deny the remaining allegations contained in Paragraph 18 of the Complaint and, therefore, denies same.

19. Bordwell denies that he attacked Plaintiff; Bordwell is without sufficient knowledge to admit or deny the remaining allegations contained in Paragraph 19 of the Complaint and, therefore, denies same.

20. Bordwell is without sufficient knowledge to admit or deny the allegations contained in Paragraph 20 of the Complaint and, therefore, denies same.

21. Bordwell is without sufficient knowledge to admit or deny the allegations contained in Paragraph 21 of the Complaint and, therefore, denies same.

22. Bordwell is without sufficient knowledge to admit or deny the allegations contained in Paragraph 22 of the Complaint and, therefore, denies same.

**Count I**  
**Conspiracy to Deprive the Plaintiff of His Constitutional  
Rights and Privileges Under 42 U.S.C. § 1985(3)**

23. Bordwell repeats and incorporates by reference the responses set forth in the preceding Paragraphs 1-22.

24. Bordwell denies the allegations contained in Paragraph 24 of the Complaint.

25. Bordwell denies the allegations contained in Paragraph 25 of the Complaint.

26. Bordwell denies the allegations contained in Paragraph 26 of the Complaint.

**Count II**  
**Violation of Massachusetts Civil Rights Act**

27. Bordwell repeats and incorporates by reference the responses set forth in the preceding Paragraphs 1-26.

28. Bordwell denies the allegations contained in Paragraph 28 of the Complaint.

29. Bordwell denies the allegations contained in Paragraph 29 of the Complaint.

**Count III**  
**Assault and Battery**

30. Bordwell repeats and incorporates by reference the responses set forth in the preceding Paragraphs 1-29.

31. Bordwell denies the allegations contained in Paragraph 31 of the Complaint.

32. Bordwell denies the allegations contained in Paragraph 32 of the Complaint.

**Count IV**  
**Intentional Infliction of Emotional Distress**

33. Bordwell repeats and incorporates by reference the responses set forth in the preceding Paragraphs 1-32.

34. Bordwell denies the allegations contained in Paragraph 34 of the Complaint.

35. Bordwell denies the allegations contained in Paragraph 35 of the Complaint.

36. Bordwell denies the allegations contained in Paragraph 36 of the Complaint.

37. Bordwell denies the allegations contained in Paragraph 37 of the Complaint.

38. Bordwell denies the allegations contained in Paragraph 38 of the Complaint.

**Count V**  
**False Imprisonment**

39. Bordwell repeats and incorporates by reference the responses set forth in the preceding Paragraphs 1-38.

40. Bordwell denies the allegations contained in Paragraph 40 of the Complaint.

41. Bordwell denies the allegations contained in Paragraph 41 of the Complaint.

42. Bordwell denies the allegations contained in Paragraph 42 of the Complaint.

**Affirmative Defenses**

First Affirmative Defense

Plaintiff's allegations fail to state claims upon which relief can be granted.

Second Affirmative Defense

Plaintiff's claims are, or may be, barred, in whole or part, by the doctrine of unclean hands.

Third Affirmative Defense

Plaintiff's claims are, or may be, barred, in whole or part, by applicable statutory limitations to suit.

Fourth Affirmative Defense

Plaintiff's claims must fail for lack of jurisdiction over the person.

Fifth Affirmative Defense

Plaintiff's claims must fail for insufficiency of process and/or insufficiency of service of process.

**Bordwell claims trial by jury on all issues so triable.**

Respectfully submitted,

SEAN BORDWELL,

By his attorneys,

/s/ Brian P. McDonough  
Anthony R. Zelle, BBO #548141  
Brian P. McDonough, BBO #637999  
DENNER O'MALLEY, LLP  
Four Longfellow Place – 35<sup>th</sup> Floor  
Boston, Massachusetts 02114  
Telephone: (617) 227-2800  
Facsimile: (617) 973-1562

Dated: November 2, 2005